Kerala Gazette No. 12 dated 22nd March, 1960.

PART III

THE HIGH COURT OF KERALA

OFFICIAL MEMORANDUM

No. B1-1247/60. *Ernakulam, dated, 26th February 1960/ 7th Phalguna 1881 (Saka).*

Sub:—Material papers in Criminal Cases to be heard by the High Ceurt — Printing of — Instructiens.

The Honourable the Chief Justice and the Honourable the Judges having decided that there should be printing in criminal cases te be heard by the High Court, Government were addressed for permission to get the material papers in such cases printed at the Government Press, Ernakulam, and accordingly, in G. O. Rt. No. 93/Home (C) Department, Trivandrum, dated 20-1-1960, the Government of Kerala have directed the Assistant Superintendent, Government Press, Ernakulam te arrange for the prempt supply to the High Court ef printed copies of material papers in criminal cases te be heard by the High Court as and when the requisition fer such supply is received from the High Court and within ten days of the receipt of each such requisition.

The following instructiens regarding the preparation of the printed paper books in criminal cases in the High Ceurt are therefere issued for compliance by the Cepying, Criminal and Printing Sections ef the High Court:

1. Material papers in the following cases will be printed at the cest of Government at the Government Press, Ernakulam, without the special orders of the Court:—

(i) references under Section 307 of the Code of Criminal Procedure;

(ii) references under Section 374 of the Code of Criminal Procedure;

(iii) appeals under Sectien 417 ef the Code of Criminal Procedure on capital charges;

(iv) appeals under Section 419 and under Sectien 420 ef the Code of Criminal Procedure unless otherwise directed;

(v) cases taken up for enhancement ef sentence to death.

2. Records in other cases may be prioted at the cost of the party applying for such printing unless the Court directs to have them printed at the cost of Government.

3. The Criminal Section will arrange to supply the manuscript copies of all records te be included in the printed paper books to the Printing Section. The preparation of the manuscript copies will be by the Copying Section. The Printing Section, on receipt of the manuscript copies, will edit the papers, send them to the Government Press and obtain the printed copies of the paper books from the Press and hand them

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over to the Criminal Section. The Criminal Section will arrange to supply the necessary printed copies to the parties or to the concerned law officers or advocates. The number of printed copies of the paper books to be got ready in each case will be as determined by the Deputy Registrar.

4. Printed copies will be supplied free of cost in the following cases :—

(a) one set to the Public Prosecutor in every case in which notice has been issued to him ;
(b) one set to a legal practitioner to whom a State brief has been issued ;
(c) one set to a legal practitioner who has been appointed to act as *amicus curiae* or engaged to appear for or defend the party at State cost ;
(d) one set to a pleader for the accused in
   (i) reference under section 374 of the Code of Criminal Procedure ;
   (ii) appeal against acquittal ;
   (iii) revision for enhancement of sentence to death ;
   (iv) appeal under section 411 A of the Code of Criminal Procedure against sentence of death.

5. The proof reading of papers printed will be done in the Government Press itself.

The question of additional staff, if any, required for the sections concerned in the High Court office to meet the requirements of the above work will be considered separately later after having some idea of the volume of the work.

By order,

Ernakulam,

P. U. KURIAKOSE,
Registrar.

To

1 The Deputy Registrar, High Court
2 The Assistant Registrar (Judicial), High Court
3 The Superintendent, Criminal Section, High Court
4 The Criminal Section, High Court (five copies)
5 The Examiner, Copying Section, High Court (three copies)
6 The Printing Section, High Court (three copies)
7 The A1 and A2 Sections, High Court
8 The D1 Section, High Court
9 The Stock file, High Court (three copies)
10 The Superintendent, Government Presses, Government Central Press, Trivandrum for publication in the Kerala Gazette.

Kerala Gazette No. 12 dated 22nd March, 1960.
PART III

UNIVERSITY OF KERALA

PROCEEDINGS

MALPRACTICE AT THE UNIVERSITY PREVIOUS EXAMINATION HELD IN SEPTEMBER 1959.

Order No. R. Dis. EAII. 1. 2479/59.

Dated, Trivandrum, 9th March 1960.

Read :—(1) Reports of the Chief Superintendents.

(2) Explanations of the candidates.

(3) Reports of the examiners in the subjects concerned.

(4) Recommendations of the Standing Committee of the Syndicate on Residence, Welfare and Discipline of students.

The Syndicate having carefully examined the cases of malpractice by candidates at the University Previous Examination held in September 1959 has found the undermentioned candidates guilty of misconduct or resorting to unfair means at the University Examinations. Accordingly the Syndicate has resolved, under section XXVII of Chapter VII of the First Statutes of the University and the provisions of section 19 of the Act 14 of 1957, that the examinations taken by these candidates be cancelled and that they be debarred from appearing for any examination of this University earlier than the date noted against the name of each.

By order,

V. P. KANNAN NAIR,
Registrar.

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MALPRACTICE AT THE UNIVERSITY PREVIOUS EXAMINATION HELD IN SEPTEMBER 1959.

Sl. No.	Name of candidate	Reg. No.	Examination taken by the candidate	Date of birth	Name of father or guardian	Address	Period of punishment
1	M. N. Balakrishnan Nayar	1475	University Previous Examination September 1959	28-9-1936	M. K. Krishnan Nayar	Muthukulathu, Palai.	Not to appear for any examination of this University earlier than September 1960.
2	M. Dharmarajan,	2491	do.	4-11-1938	M. C. Sankaran	Manandravil House, Chalapuram Kozhikode-2.	Not to appear for any examination of this University earlier than September 1961.
3	S. Abdul Razhak	3438	do.	4-6-1937	Meeravammal	Neehattayil House, Kannankera, Pathanamthitta.	do.
4	George Varughese	4643	do.	23-9-1939	Thomas Varughese	Palathinkal, Paliakara, Tiruvella.	do.

Communicated to:—

(1) The candidates
(2) The Principals of all Colleges
(3) The Registrars of all Indian Universities
(4) The Director of Public Instruction, Kerala, Trivandrum
(5) The Director of Technical Education, Kerala, Trivandrum
(6) The Secretary to the Public Service Commission, Kerala, Trivandrum
(7) The Secretary to the Public Service Commission, Madras
(8) The Secretary to the Union Public Service Commission, New Delhi
(9) The Secretary to the Inter-University Board, New Delhi.

THE KERALA STAY OF EVICTION PROCEEDINGS (AMENDMENT) BILL, 1960.

REPORT OF THE SELECT COMMITTEE.

The Select Committee to which the Kerala Stay of Eviction Proceedings (Amendment) Bill 1960 was referred have considered the Bill clause by clause and now submit this, their Report with the Bill as amended by the Committee annexed thereto.

2. The Bill was published in the Gazette Extraordinary dated 12th March 1960. It was introduced in the Legislative Assembly on the 15th March 1960 and was referred to a select committee on the 17th March 1960. The Committee was empowered to scrutinise Sections 2 and 3 of the original Act and submit its Report before the 21st March 1960.

3. **Clause 3.** The Committee consider that the scope of the definition of "holding" should be enlarged so as to take in any land in the possession of a person *bona fide* believing himself to be a lessee or sub-lessee in respect of such land for a continuous period of two years before the eleventh day of April 1957, and which continued to be in his possession till 22nd February, 1960.

The Committee feel that the definition of "kudikidappukaran" requires some amendment. Under the existing definition, the permission of the owner is necessary to confer rights of a kudikidappukaran. According to the Committee permission to erect a homestead or occupy a hut given by a person in lawful possession, like a lessee, should be sufficient to confer the rights of a kudikidappukaran. They also consider that in the light of a recent decision of the High Court in interpreting the use of the expression "kudiyiruppu" in regard to the presumption to be drawn in the matter of permission of owner, the present Explanation I to the clause requires some verbal change.

A new definition of eviction has been added so as to include within the scope of that expression the shifting or re-location of kudiyiruppu under Section 11 of the Travancore-Cochin Prevention of Eviction of Kudikidappukars Act, 1955. The Committee consider that such a provision is necessary as the benefit sought to be provided under the principal Act may not be available to the kudikidappukars when suits are instituted for shifting of kudiyiruppus as such shifting is not considered to be eviction within the meaning of this Act.

The term "hut" is defined in clause (2) of Section 2 of the principal Act. Explanation II to clause (3) also explains what is meant by a hut in regard to kudikidappukars. The Committee consider that the definition of hut may be modified by combining the provisions of the present clause (2) and Explanation II to clause (3).

Since the term "State" has been used in the new definition of "holding", a definition for that term has also been added.

Clause 3 has been re-drafted to implement the above proposals.

4. **Clause 4.** As a consequence of enlarging the scope of the definition of "holding" it is necessary to provide for restoration of possession or occupation of persons who have been deprived af their rights. Therefore a consequential provision has been made for this purpose by inserting a new Section 4A.

5. **Clause 5.** In the definition of "kudikidappukaran" the expression "kudikidappu" occurs. There is also a definition of "kudiyiruppu". Thus the expressions "kudikidappu" and "kudiyiruppu" are overlapping. Moreover, in the Malabar area, according to the Malabar Tenancy Act, "kudiyiruppu" has a definite meaning different from the one as used in this Act. Therefore, with a view to avoid confusiou, the Committee feel that the definition of "kudiyiruppu" may be omitted and the expression "kudikidappu" used. Consequently, in Section 5, the expression "kudiyiruppu" is proposed to be substituted by "kudikidappu".

6. The Committee considered whether Section 3 of the principal Act should be amended for the purpose of excluding kandukrishi lands from the scope of the exemption for lauds owned by the Government. They feel that no such amendment is necessary and that it may be left to the Government to consider whether any amendment to the Kandukrishi Lands Assignment Rules is necessary for protecting the interests of Sub-lessees of such lands.

K. CHANDRASEKHARAN,

Chairman of the Select Committee.

THE KERALA STAY OF EVICTION PROCEEDINGS (AMENDMENT) BILL, 1960.

(As amended by the Select Committee)
(The side lines indicate the changes made by the committee)

A

BILL

further to amend the Kerala Stay of Eviction Proceedings Act, 1957.

Preamble.—WHEREAS it is expedient further to amend the Kerala Stay of Eviction Proceedings Act, 1957 for the purposes hereinafter appearing;

BE it enacted in the Eleventh Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Stay of Eviction Proceedings (Amendment) Act, 1960.

(2) It shall come into force at once.

2. *Amendment of Section 1.*—In sub-section (3) of Section 1 of the Kerala Stay of Eviction Proceedings Act, 1957 (Act I of 1957), hereinafter referred to as the principal Act, for the words, figures and letters "the 11th day of April 1960", the words, figures and letters "the 11th day of October 1960" shall be substituted.

3. *Amendment of Section 2.*—In Section 2 of the principal Act, for clauses (1) to (4), both inclusive, the following clauses shall be substituted, namely:—

"(1) "eviction of a kudikidappukaran from his kudikidappu" includes shifting or re-location of a kudiyiruppu under Section 11 of the Travancore-Cochin Prevention of Eviction of Kudikidappukars Act, 1955;

(2) "holding",—

(a) in relation to any immovable property situated in any part of the State where the Malabar Tenancy Act, 1929, is in force, shall have the meaning assigned to it in that Act;

(b) in relation to any immovable property situated in any part of the taluk of Kasargod or Hosdurg where the Malabar Tenancy Act, 1929, is not in force, shall mean a parcel or parcels of land held by a cultivating tenant; and

(c) in relation to any immovable property situated in any other part of the State, shall mean any immovable property held under a single transaction by which a leasehold right in the property is created and possession of the property is transferred by one person in favour of another and includes kanapattom,

and shall include any immovable property, wherever situated in the State, in the possession or occupation of a person *bona fide* believing himself to be a lessee or sub-lessee, for a continuous period of not less than two years immediately before the 11th day of April, 1957 and which continued to be in his possession or occupation up to the 22nd day of February, 1960;

(3) "hut" means any dwelling house which is constructed principally of wood, mud, grass or thatch and which has a value not exceeding four hundred rupees;

(4) "kudikidappukaran" means a person, whether registered or not as a kudikidappukaran under the Travancore-Cochin Prevention of Eviction of Kudikidappukars Act, 1955, who has no homestead or land, either as owner or as tenant in possession, to erect a homestead, and—

(i) who has been permitted with or without an obligation to pay rent by a person in lawful possession of any land to have the use and occupation of a portion of such land for the purpose of erecting a homestead or

(ii) who has been permitted by a person in lawful possession of any land to occupy, with or without an obligation to pay rent, a hut belonging to such person and situated in the said land,

but otherwise has no interest in the land; and "kudikidappu" means the land and the homestead or the hut so permitted to be erected or occupied together with the easements attached thereto and includes an ulkudi:

Provided that a person shall not be deemed to be a kudikidappukaran if the aforesaid permission waa granted after the 11th day of April, 1957, by a mortgagee in possession.

Explanation.—Any person who was in occupation of a homestead or hut on the 11th day of April, 1957, and who continued to be in such occupation up to the 12th day of March, 1960, shall be deemed to be in occupation of such homestead, or hut, with permission as required under this clause;

(4A) "State" means the State of Kerala."

4. *Insertion of new Section 4A.*

After Section 4 of the principal Act, the following Section shall be inserted, namely:—

"4A. **Restoration of certain persons to possession or occupation.**—(1) Where, after the 22nd day of February, 1960,